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November 19, 2004

Stan Rosenstein, Deputy Director
Medical Care Services
Department of Health Services
1501 Capitol Avenue, Suite 6086
MS 4000
Sacramento, CA 95814-5005

RE: AB 1629 Consultative Process

Dear Mr. Rosenstein:

We are writing to express CANHR's views on the consultative process DHS is establishing to implement AB 1629 (Frommer). At the November 12, 2004 meeting on AB 1629, you reported that the Department wants stakeholder input on this process. We recommend the following actions:

Submit the Medicaid State Plan Amendment (SPA) on the new rate plan to the federal government on February 1, 2005: DHS should take the maximum amount of time allowed by AB 1629 to submit the required Medicaid SPA to CMS. As it is, the plan must be submitted in less than two months from the date of the first meeting, December 3, 2004, set for this issue. If DHS were to adopt your proposal to move the submission date forward to December 31, 2004, there would be less than a month available for public input. Considering the holiday season and the lack of any currently available documents on the Medicaid SPA, it would be impossible to complete a meaningful consultative process by December 31, 2004.

Give stakeholders at least 30 days to review and comment on the draft Medicaid SPAs and federal waiver proposals: You stated that DHS will give interested parties an opportunity to review and comment on draft plans, including required Medicaid SPAs and waiver proposals. We strongly recommend that DHS provide at least a 30-day comment period on all key plans in order to allow a meaningful opportunity to review and respond. Given the complexity of the new rate system and the radical change that is being imposed, anything less than a 30 day comment period would defeat the purpose of the consultative process.

Publish all pertinent information on the planned AB 1629 web page as soon as possible: It was announced that DHS is setting up a web page to provide public information on AB 1629 implementation activities. We urge DHS to establish the web page as quickly as possible, to post all available information immediately, and to notify interested parties as soon as the web page is operational. The DHS fiscal analysis of AB 1629 should be posted on the site.

Provide clarification of ambiguous requirements: Kevin Harris, your consultant, announced that he is seeking clarification from AB 1629's author on "ambiguous" requirements. We request that you provide us copies of the correspondence on this matter and that DHS post this information on the planned web page.

Establish process to promote quality: You stated that DHS's top priority is to ensure that AB 1629 produces high quality care. DHS could take a good first step by holding public hearings on this goal. For example, AB 1629 requires that SNF compliance with staffing standards be documented regularly. See WIC §14126.023(k). If this requirement is to be taken seriously, it is critical that DHS establish effective methods of determining compliance with minimum staffing requirements. DHS should solicit public views and adopt the most effective methods of monitoring and achieving full compliance.

Hold meetings at appropriate locations: It is not appropriate to hold consultative meetings in a large auditorium, as was the case on November 12. The setting provided little opportunity for discussion and interaction with other interested parties.

Provide immediate information about fee increases: We continue to receive many complaints from alarmed private pay residents that SNFs are blaming AB 1629 for large fee increases they are assessing. As one example, we are attaching a notice from a San Diego SNF that imposed a retroactive rate increase to August 1, 2004. It is outrageous that nursing home operators are portraying themselves as a victim of a law that they wrote and which will provide a 25 percent increase in Medi-Cal rates over the next four years.

We urge DHS to publish and distribute information to consumers about AB 1629 so that they will be able to recognize and respond to the price gouging which is occurring throughout California.

At a minimum, consumers should be informed: (1) that existing law requires SNFs to give at least 30 days written notice before any rate increase; (2) AB 1629 does not require SNFs to impose any new fees on private pay residents; (3) SNFs have not received a bed tax assessment and are not expected to be assessed the new fee until late this year, at the earliest; (4) the expected amount of the bed tax; and (5) how bed tax revenues will produce additional federal Medicaid funds for SNFs.

Thank you for considering our recommendations. Please advise us of your response.

Sincerely,

Patricia L. McGinnis
Executive Director

Mike Connors
Long Term Care Advocate

Cost of New Methodology With Provider Fee

Rate Year	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Total
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Current System With No Provider Fee

Total Cost	\$2,644,289	\$2,716,442	\$2,971,075	\$3,075,063	\$3,182,690	\$3,294,084	\$3,409,377	\$3,528,705	\$3,652,210	\$3,780,037	\$3,912,339	\$36,166,312
Federal Cost	\$1,322,144	\$1,358,221	\$1,485,538	\$1,537,531	\$1,591,345	\$1,647,042	\$1,704,689	\$1,764,353	\$1,826,105	\$1,890,019	\$1,956,169	\$18,083,156
GF Cost	\$1,322,144	\$1,358,221	\$1,485,538	\$1,537,531	\$1,591,345	\$1,647,042	\$1,704,689	\$1,764,353	\$1,826,105	\$1,890,019	\$1,956,169	\$18,083,156
Provider Fee Collected	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Current System Net Cost	\$1,322,144	\$1,358,221	\$1,485,538	\$1,537,531	\$1,591,345	\$1,647,042	\$1,704,689	\$1,764,353	\$1,826,105	\$1,890,019	\$1,956,169	\$ 18,083,156

New System With Provider Fee

Total Cost With Provider Fee	\$2,644,289	\$2,956,722	\$3,289,058	\$3,453,511	\$3,643,454	\$3,843,844	\$4,055,255	\$4,278,294	\$4,513,600	\$4,761,848	\$5,023,750	\$42,463,626
Federal Cost	\$1,322,144	\$1,478,361	\$1,644,529	\$1,726,755	\$1,821,727	\$1,921,922	\$2,027,628	\$2,139,147	\$2,256,800	\$2,380,924	\$2,511,875	\$21,231,813
GF Cost	\$1,322,144	\$1,478,361	\$1,644,529	\$1,726,755	\$1,821,727	\$1,921,922	\$2,027,628	\$2,139,147	\$2,256,800	\$2,380,924	\$2,511,875	\$21,231,813
Provider Fee Collected	\$0	\$120,140	\$256,000	\$268,800	\$283,584	\$299,181	\$315,636	\$332,996	\$351,311	\$370,633	\$391,018	\$2,989,299
New System Net Cost	\$1,322,144	\$1,358,221	\$1,388,529	\$1,457,955	\$1,538,143	\$1,622,741	\$1,711,992	\$1,806,151	\$1,905,489	\$2,010,291	\$2,120,857	\$ 18,242,514
GF Cost Avoidance	\$ -	\$ -	\$ 97,009	\$ 79,576	\$ 53,202	\$ 24,301	\$ (7,303)	\$ (41,798)	\$ (79,384)	\$ (120,273)	\$ (164,688)	\$ (159,358)
Cummulative GF Cost Avoidance	\$ -	\$ -	\$ 97,009	\$ 176,585	\$ 229,787	\$ 254,088	\$ 246,785	\$ 204,987	\$ 125,603	\$ 5,330	\$ (159,358)	\$ (159,358)

Notes:

All Costs are in Thousands.

For the current system, COLA increase for Year 2004/05 is 5.68%, and after Year 2004/05 cost increase is at 3.5%.

For the new system, Year 2005/06 costs are capped at 8%, Year 2006/07 costs are capped at 5%, and cost for years after 2006/07 are capped at 5.5%.

Numbers may not add due to rounding.